

AN ORDINANCE 2006-06-01-0642

**APPROVING THE ASSIGNMENT OF THE RIGHTS AND
OBLIGATIONS OF A TAX PHASE-IN AGREEMENT FROM
MSPA ACQUISITION II, L.P. TO HEI SAN ANTONIO HOTEL
L.P.**

* * * * *

WHEREAS, on February 8, 1996, City Council approved a Tax Phase-In Agreement with a special purpose entity, Seven Seventeen HB San Antonio Corporation, created by its parent company HBE Corporation; and

WHEREAS, at that time, Seven Seventeen renovated, owned and operated what was then known as the Adam's Mark Hotel and Bexar County and San Antonio ISD also granted tax abatements to support the project; and

WHEREAS, on December 18, 2003, City Council approved Ordinance No. 98626 to assign the Tax Phase-In Agreement from Seven Seventeen to MSPA Acquisition II, L.P. ("MSPA"); and

WHEREAS, in 2004, the Adam's Mark Hotel was re-flagged as the Crowne Plaza Hotel, and during the term of its Agreement, the Hotel has provided jobs for 300 full-time employees; and

WHEREAS, on June 9, 2005, City Council approved an amendment to the Tax Phase-In Agreement to remove one of the three original properties included in the Agreement, 425 Soledad, (a.k.a. Soledad Plaza West Office Building) and subjecting the parcel to taxation; and

WHEREAS, HEI San Antonio L.P. ("HEI") is an entity of HEI Hospitality, LLC, a Delaware limited liability company based in Stamford, Connecticut which is a full-service hospitality company that owns and operates full service hotels through joint ventures with institutional capital partners and through investment funds sponsored by HEI; and

WHEREAS, HEI currently owns interests in and operates 28 full-service hotel properties throughout the country; and

WHEREAS, MSPA requests the authorization of the City Council to assign the rights and obligations of the Tax Phase-In Agreement to HEI; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council authorizes the assignment of the rights and obligations of MSPA Acquisition II, L.P. in its Tax Phase-In Agreement with the City of San Antonio to HEI San Antonio Hotel L.P.

SECTION 2. The City Manager or her designee is authorized to execute the assignment approved in Section 1, a signed copy of which is attached hereto as Attachment I, for a period of 60 days from the effective date of this ordinance.

SECTION 3. This ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 1st day of June, 2006.

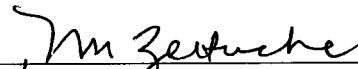

M A Y O R

PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM: _____


for City Attorney

ATTACHMENT I

ASSIGNMENT OF TAX PHASE-IN AGREEMENT
ORIGINALLY BETWEEN
THE CITY OF SAN ANTONIO
AND
SEVEN SEVENTEEN HB SAN ANTONIO CORPORATION
TO
HEI SAN ANTONIO HOTEL LP

STATE OF TEXAS

COUNTY OF BEXAR

This Assignment (the "Assignment") of Tax Phase-In Agreement (the "Agreement") is entered into between the City of San Antonio, a political subdivision of the State of Texas (the "City") duly acting herein by and through its duly authorized representatives, pursuant to Ordinance dated June _____, 2006 by the City Council (the "Council"), and MSPA Acquisition II, L.P., a Delaware limited partnership (the "Assignor"), and HEI SAN ANTONIO HOTEL LP, a Delaware limited partnership (the "Assignee").

WITNESSETH

WHEREAS, on February 8, 1996, the Council passed and approved its Ordinance No. 83580 authorizing the duly authorized representatives of the Council and Seven Seventeen HB San Antonio Corporation, a Texas corporation (the "Original Owner") to enter into a Tax Phase-In Agreement (the "Agreement") for the Premises, Improvements and Personal Property described in the Agreement (collectively, the "Project"). A true complete and correct copy of the Agreement is attached hereto as Exhibit A.

WHEREAS, On December 18, 2003, the City, the Original Owner and Assignor entered into an Assignment of the Agreement under which the City authorized the assignment by the Original Owner of all of its rights and obligations under the Agreement to Assignor; and

WHEREAS, on October 20, 2005, the City and Assignor entered into an Amendment to the Agreement to address the revisions and deletions as set out in such Amendment; and

WHEREAS, the Assignor requests the authorization of the City Council to assign the rights and obligations of the "Owner" under the Agreement to the Assignee; and

WHEREAS, the Assignee has agreed to (i) accept the rights of the "Owner" under the Agreement; and (ii) assume the obligations of the "Owner" under the Agreement.

NOW, THEREFORE, the City, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, which consideration includes the agreement of Assignee to assume the obligations of the Owner under the Agreement; and Assignee, for good and valuable consideration, the adequacy of which and receipt of which are hereby acknowledged, do hereby agree as follows:

1. (a) The Agreement is in full force and effect and terminates on December 31, 2006, with the exception of the recapture provisions in Article 7, Section f, which shall survive the termination of the Agreement as provided in the Agreement, as previously amended.

(b) The Agreement has not been amended, except as previously approved by the City and Assignor.

(c) The Assignor is not in default under the Agreement.
2. The City authorizes the assignment by the Assignor of all its rights and obligations under the Agreement to Assignee and Assignee hereby assumes all of the obligations of the Owner under the Agreement, as amended that may have occurred or accrued prior to or subsequent to the date of the conveyance of the Project to Assignee. Further, (i) Assignor shall remain liable to the City for any breach of the obligations of the Owner under the Agreement, as amended, that may have occurred after December 18, 2003 and prior to the date of the conveyance of the Project to Assignee; (ii) Seven Seventeen HB San Antonio Corporation shall remain liable to the City for any breach of the obligations of the Owner under the Agreement that may have occurred prior to December 18, 2003; and (iii) the City releases and discharges Assignor from all liability and obligations of the Owner under the Agreement that may occur or accrue subsequent to the date of the conveyance of the Project to Assignee.
3. This Assignment will become effective on the date that the Assignor files with the City a true and correct copy of the Deed conveying the Project by Assignor to the Assignee.

EXECUTED IN DUPLICATE ORIGINALS this ____ day of _____, 2006.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

CITY OF SAN ANTONIO

Sheryl L. Sculley
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ASSIGNOR

MSPA ACQUISITION II, L.P., a Delaware
limited partnership

By: MSPA Acquisition II GP, L.L.C., a
Delaware limited liability company, its
General Partner

By: _____
Name: Warren P. Fields
Title: _____

ASSIGNEE

HEI SAN ANTONIO HOTEL LP

By: HEI San Antonio GP, LLC, a Delaware
limited liability company

By: _____
Name: _____
Title: _____

CITY OF SAN ANTONIO

Sheryl L. Sculley
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ASSIGNOR

MSPA ACQUISITION II, L.P., a Delaware
limited partnership

By: MSPA Acquisition II GP, L.L.C., a
Delaware limited liability company, its
General Partner

By: _____
Name: _____
Title: _____

ASSIGNEE

HEI SAN ANTONIO HOTEL LP

By: HEI San Antonio GP, LLC, a Delaware
limited liability company

By: _____
Name: Anthony Rutledge
Title: Vice President

Agenda item #19
(A)

**CITY OF SAN ANTONIO
ECONOMIC DEVELOPMENT DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Sheryl Sculley, City Manager

FROM: Ramiro A. Cavazos, Director

SUBJECT: Ordinance to Approve Assignment of the existing Tax Phase-In Agreement on the Crowne Plaza Hotel (formally the Adam's Mark Hotel) from MSPA Acquisition II, L.P. to HEI San Antonio Hotel L.P.

DATE: June 1, 2006

SUMMARY AND RECOMMENDATIONS

This ordinance will approve the assignment of a Tax Phase-In Agreement (originally approved on February 8, 1996, by Ordinance No. 83580 between the City of San Antonio and Seven Seventeen HB San Antonio Corporation) from MSPA Acquisition II, L.P. to HEI San Antonio Hotel L.P. for the Crowne Plaza Hotel and related property located at Soledad and Pecan Streets. Even though the ten-year term for this Tax Phase-In Agreement will conclude on December 31, 2006; the recapture provisions will survive the Agreement term for an additional five years (until 2011).

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

On February 8, 1996, City Council approved a Tax Phase-In Agreement with a special purpose entity, Seven Seventeen HB San Antonio Corporation, created by its parent company HBE Corporation. At that time, Seven Seventeen renovated, owned and operated what was then known as the Adam's Mark Hotel. Bexar County and San Antonio ISD also granted tax abatements to support the project.

On December 18, 2003, City Council approved Ordinance No. 98626 to assign the Tax Phase-In Agreement from Seven Seventeen to MSPA Acquisition II, L.P. In 2004, the Adam's Mark Hotel was re-flagged as the Crowne Plaza Hotel. During its Agreement term, the hotel has provided jobs for 300 full-time employees.

On June 9, 2005, City Council approved an amendment to the Tax Phase-In Agreement to remove one of the three original properties included in the agreement. The amendment deleted 425 Soledad (a.k.a. Soledad Plaza West Office Building) from the agreement. This removal action subjected this parcel to taxation.

HEI San Antonio L.P. is an entity of HEI Hospitality, LLC, a Delaware limited liability company based in Stamford, Connecticut, which is a full-service hospitality company that owns and operates full service hotels through joint ventures with institutional capital partners and through

investment funds sponsored by HEI. HEI currently owns interests in and operates 28 full-service hotel properties throughout the country.

POLICY ANALYSIS

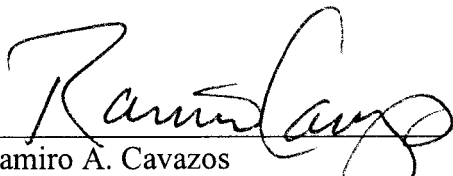
This action would authorize the second assignment (third amendment) of the existing Tax Phase-In Agreement, along with all associated benefits, obligations and liabilities. Tax Phase-In assignments must receive prior City Council approval to be assigned to another owner. The assignment will survive the tax abatement term, which will conclude at the end of 2006, and allow the City to apply the recapture provisions to HEI San Antonio, and its successors, until 2011.

FISCAL IMPACT

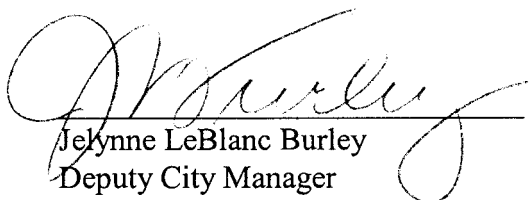
There is no fiscal impact.

COORDINATION

This item has been coordinated with the City Attorney's Office and Asset Management Department.



Ramiro A. Cavazos
Director, Economic Development Department



Jelynn LeBlanc Burley
Deputy City Manager